

S0270024
S0010035

From: Mary Ann Wright
To: Penny Berry
Date: 11/14/2006 5:47:59 PM
Subject: Fwd: Possible appeal to Board of Oil, Gas and Mining

for the file, please...

>>> Mike Johnson 11/14/2006 4:45 PM >>>

Mr. Penney: Set forth below is a message I attempted to send you at the rockart@interspan.com address twice in late September. I am re-sending this message to this email address in case you did not receive the prior messages. It will also be sent to you as a letter via regular mail.

Mr. Penney:

My name is Michael Johnson and I act as legal counsel to the Board of Oil, Gas and Mining. Your August 10, 2006 letter to the Division of Oil, Gas and Mining (pertaining to your possible appeal of the Division's findings "for MC-2005-04-04 Little Spot S027024, and MC 2005-04-05, Silver 1-2 Picasso Marble, S001035") was forwarded to me for response.

Although I cannot give you legal advice, I can direct you to the rules governing proceedings before the Board of Oil, Gas and Mining. Those rules are set forth in Title R641 of the Utah Administrative Code. You or your attorney should familiarize yourself with those rules before proceeding with any appeal.

You inquired about the appropriate address for submittals to the Board. All submittals should be filed with the Secretary for the Board of Oil, Gas and Mining at 1594 West North Temple, Suite 1210, Salt Lake City, Utah 84116.

The Board's rules set forth certain requirements for written petitions and other filings. Petitions should at a minimum identify the matter you are appealing, state the nature of your interest in the matter, and should set forth in as much detail as possible the basis of your objection or comment. Exhibits may be filed contemporaneously with the petition or may be filed by a later exhibit deadline (30 days prior to the hearing date for the matter). This list of requirements is not exhaustive, and you should consult the rules referenced above to ensure full compliance. Whether the Board accepts your August 10, 2006 letter as a timely appeal and allows you to submit any revised petition will depend in part on whether any other party to this matter (including the Division of Oil, Gas and Mining) makes any objection. If you intended your August 10, 2006 letter to serve as an appeal, please notify the Board's secretary of this fact in writing and submit a revised petition which complies with the above-referenced rules by December 11, 2006. The deadline for your appeal has passed, and the Board must know whether you intended your August 10, 2006 letter to serve as an appeal and whether you intend to proceed in this matter. If nothing is submitted by you by December 11, 2006, the Board will assume that you did not intend to file any appeal, and you will not thereafter be permitted to file one.

You should also be aware that natural persons (individuals) may either appear and represent themselves before the Board, or may hire attorneys to assist them. See Utah Administrative Code R641-102-100. However, pursuant to R641-102-200, all other parties (corporations, LLCs, partnerships, or other legal entities) must be represented by an attorney in any hearing before the Board. I am informed that Penney's Gemstones is an LLC. If Penney's Gemstones is the real party in interest in this appeal, you should be aware that the Board's rule will require that the LLC be represented by an attorney at any hearing on this matter.

I hope that the foregoing information is helpful to you. You may contact me at (801) 538-7484 with any additional questions.